

TOWN OF WILMINGTON
COVER SHEET
DRB FINDINGS OF FACT ATTACHED

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211 vt rte 9

Zoning Permit Application Number:

2025-030

Date of First Hearing:

4.21.25

Public Hearing Notice published in the Deerfield Valley News on:

3.14.25

Notice was posted in three public places on:

3.10.25

A copy of the Notice was mailed to the applicant and abutters on:

3.10.25

Appeal period for this DRB Decision expires on:


8.11.25

Approved Permit (after two years) expires on:

NOT

ISSUED
CONDITIONS
NOT MET

HOLD


7.11.25

TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for permit was made to Board by: VT 211, LLC

Owner/Applicant(s) Mailing Address: 1076 Fairfield Beach Road, Fairfield CT 06824

Address of the subject property: **211 Route 9E**

Tax Map: parcel # 21-22-63

A copy of the request is filed in the office of the Board and is referred to as: **#2025-030**

Description of Case per Public Notice:

Application # **2025-030**: Owner: VT 211, LLC

Application is being made for a **An After-the-fact Eleventh (11) Unit and twenty-four (24) Bedroom Short-Term Rental Use (formerly Lodging Use) Across the Eleven (11) units and correct Violation Case #159 regarding non-shielded and not downcast outdoor lighting as required by the Zoning Bylaw in the Commercial/Residential District within both the Commercial/Residential & residential zoning districts. Addition of office use & community use**

Applicable Wilmington Code Sections:

Article II- 221, 222, 223, 224, 226, 227, 228, 271, 272

Article IV- 420, 440, 450 E

Article VII- 710, 720, 721, 722, 730 A, D, F, H

Notice for a public hearing was published in the Valley News on: **3/14/25**

Notice was posted in three public places on: **3/10/25**

A copy of the notice was mailed to the applicant on: **3/10/25**

A copy of the notice was mailed to the abutters on: **3/10/25**

Appeal period for this Case expires on: 8/10/2025

Approval expires on: 7/10/2027

The following presented testimony as the applicant or on behalf of the Applicant or as an Interested Person:

Robin Sweetapple

Joseph Garra

EXHIBITS

The following Exhibits were placed in evidence by the Applicant or their Agent:

1. Staff Report
2. Cover Sheet
3. Notice of Hearing
4. Application (4 pages)
5. Floorplan
6. Site map
7. Parking plan
8. STR sheet

9. Abutters
10. Suspected violation report (2 pages)
11. Zoning permit 2024
12. Wastewater permit
13. Land use permit (2 pages)
14. Second floor plan
15. First floor plan
16. Zoning permit 2022
17. Parking plan 2022
18. DRB Decision 2022- 7 pages
19. Parking plan large version
20. Fire Marshal report

ARTICLE II: ADMINISTRATIVE PROCEDURES

ARTICLE II: ADMINISTRATIVE PROCEDURES

Section 221 The Role of the Development Review Board
 Section 222 Land Development and Uses Requiring Development Review Board Written Decision and Approval
 Section 223 Development Review Board Site Plan and Design Review
 Section 224 Development Review Board Site Plan and Design Review Submission Requirements
 Section 226 Development Review Board Decisions
 Section 227 Plan Changes after Receiving a Development Review Board Decision
 Section 240 Appeals
 Section 246 Appealing Decisions, Acts, or Failure to Act of the Development Review Board
 Section 271 Public Hearings
 Section 272 Who May Attend and Be Heard at a Public Hearing

Finding of Facts: Sections noted outline administrative procedures, definitions, role of the DRB, and responsibility of the applicant. Application was received containing all necessary documents at the time of the hearing, and applicant confirmed there were no questions or concerns with this article.
Conclusion of Law: Article II is met.

ARTICLE IV: DISTRICTS & USES

Section 420: Uses
Section 440: Districts & District Requirements
Section 450: Districts

DISTRICT

Finding of Fact: Property is located in two districts; Residential & Commercial/ Residential
Conclusions of Law: District is confirmed & section met.

USES

Finding of Facts: Property uses for residential apartment, short term rental, restaurant, common area & 1 office.
Conclusions of Law: Section is met

ARTICLE VII: STANDARDS

Section 710: Use Performance Standards

A. Vibration: No continuous, permanent, ongoing, or frequent vibration that is discernible at the property line.

Findings of Fact: Applicant provided testimony of no discernible vibration.
Conclusions of Law: Section is met.

B. Noise: Continuous, permanent, ongoing or frequent noise in excess of that of a normal conversation must not exist at the property line. Recurring periodic noise in excess of that of a normal lawn mower at the property line is allowed provided it does not occur between the hours of 9PM and 7AM and does not significantly detract from or diminish other property's allowed use or land development.

Findings of Fact: Applicant provided by testimony for no excess noise after hours.

Conclusions of Law: Section is met.

Section 720: Applicability of Conditional Use Standards and Site Plan and Design guidelines

Findings of Fact: Agent provided testimony affirming.

Conclusions of Law: Section is met.

SECTIONS 721: GENERAL STANDARDS

The proposed use shall protect against adverse effect on:

- A. The capacity of existing or planned community, municipal or educational facilities
- B. Impact on traffic, roads, highways, transportation systems, pedestrian walkways in the vicinity
- C. By-laws and ordinances in effect at the time
- D. Utilization of renewable energy resources
- E. Air quality
- F. The character, aesthetics, and scenic value of the neighborhood and area affected, as defined by the purpose or purposes of the zoning district within which the project is located and specifically stated policies and standards of this ordinance and the Town Plan.

Findings of Fact: Applicant testified that the granting of this application upholds the general standards, and no undue adverse effect is apparent. There is no evidence available at the time of the hearing to suggest otherwise.

Conclusions of Law: Section 721 is met.

Section 722: Conditional Use - Preserving the Character of the Town

- A. **Preserving the Town's Character:** Business development shall, to the extent reasonable and possible, occur in a manner that preserves the rural & agricultural character and ambiance of the community and the historic downtown.
- B. **Economic Development Contributing to the Character of the Town:** Merchandise or services shall not detract from the historic character and nature of the town as a family destination for tourists and a family focused residential community.
- C. **Development Consistent with the Rural, Agricultural, and Historic Nature of the Town:** Construction, reconstruction, or land development, whether allowed, Permitted, or Conditional shall, to the extent reasonable and possible, reflect and/or compliment the historic nature of the town and the rural & agricultural appearance of the neighborhood & region.
- D. **Formula Businesses:** The visual appearance of Formula Businesses (also known as chain stores, including things such as grocery stores, gas stations, chain drug stores, dollar stores, etc), including signage shall project an appearance harmonious with the character of the rural, agricultural, and historic nature of the town, consistent with the site plan and design guidelines of Appendix I.
- E. **Maximum Square Footage of Retail (2000 square feet):** All retail businesses with a proposed footprint of greater than 2,000 square feet shall require Development Review Board review, written decision & approval in all districts. Stores exceeding the 2,000 square foot maximum may be approved by the Development Review Board in the event that the business is:
 - 1. Is consistent with the unique character & ambiance of the community
 - 2. Is found to be in the best interested of the community.
 - 3. Is the minimum size required to reasonably accommodate the business.
 - 4. Will enhance or preserve the economic base & economic diversity of the town as a whole.
 - 5. Will create economic stability & viability for the community.
- F. **Building Scale Conformity:** Development shall conform to the scale of the established neighborhood.
- G. **Utility Placement:** to preserve the aesthetics & natural beauty of the area, underground utilities are encouraged where possible, particularly in areas of natural scenic beauty and in the HDRD.

Findings of Fact: Applicant provided testimony that the restaurant will potentially sell retail in the future, but no plans are currently in place. Property benefits the community & the districts.

Conclusions of Law: Section is met.

SECTION 730: CONDITIONAL USE -- SPECIFIC STANDARDS

A. Lighting and Glare: Shall be shielded and downcast. Glare and reflection are prohibited if it is an unreasonable nuisance to other property owners or tenants, does not contribute to aesthetics, scenic value or character of the area, or could impair vision of pedestrians or drivers.

Findings of Fact: After the conclusion of the site visit, the Applicant replaced all light bulbs with downcast & shielded bulbs. New light bulbs met the ordinance requirements. The applicant also repaired the broken timer & sensor on the side of the building.

Conclusions of Law: Section is met.

D. Commercial Parking and Loading: Commercial parking and loading areas in all districts shall:

1. Provide off-street parking (except in the Historic Design Review District)
2. Parking spaces shall be 10 x 18 (smaller allowed only if need for added spaces outweighs the risk and public inconvenience of smaller spaces). Special consideration shall be given to safety, pedestrian and disabled persons concerns when smaller spaces are allowed.
3. Minimum number of spaces: One (1) parking space for each 200 sq. ft. retail.
4. Drive-up Windows: no waiting lines in public ROW
5. Minimize visual impact of parking/loading areas
6. Buffer parking areas if needed for safety or aesthetics
7. Public Road Access: minimize traffic interruption, provide for auto and pedestrian safety
8. Rainwater, Snow, and Ice Removal/Storage: Plan for snow/ice removal, runoff, safety.
9. Safety: Minimize physical hazards, provide safe pedestrian and vehicular movement with unobscured views, especially visibility at intersections, pedestrian safety, convenience, and emergency access.
10. Neighboring properties: integrate circulation and parking with neighboring properties. Work to maximize for efficiency, safety, and attractive solutions.

Finding of Facts: Applicant currently has 24 spots – future spots will be 70, which is over the required 36 parking spaces needed.

Conclusions of Law: Section is met.

F. Landscaping, Screening and Development: Shall “preserve the rural and agricultural character and ambiance of the community”. Natural features characteristic of the town’s rural and agricultural nature shall be preserved. Landscaping and Screening shall be used to preserve and protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties.

Findings of Fact: Existing landscaping preserves the character & ambiance of the community.

Conclusions of Law: Section is met.

H Wastewater and Potable Water: A permit may be issued upon receipt of evidence there is a wastewater and potable water permit. If none is received with a submitted application, the Permit will be conditioned on receipt of a wastewater and potable water permit at which time a final Permit will be issued. DRB shall instruct the applicant on their responsibility to obtain state and federal permits and may condition their decision on obtaining such permits.

Findings of Fact: Applicant to provide ZA allocation for the restaurant, permit has been issued for the units.

Conclusions of Law: Section is met.

The application for waiver of ordinance under section 890 in the Commercial/ Residential District is approved with the following conditions, restrictions, requirements, limitations and specifications.

1. Except as otherwise required to accommodate the conditions of this decision, development will be executed in accordance with the testimony provided. Any changes to the plans will require administrative approval from the Zoning Administrator and/or a review by the Development Review Board, in conformance with the ordinance.
2. Allocation for the restaurant must be provided to ZA before approval.
3. The final parking plan and pedestrian safety plan must be provided to ZA prior to approval.

Town of Wilmington, Zoning Administrator, reserves the right to monitor compliance with this decision and all decisions issued by the Development Review Board

IN FAVOR of granting the APPROVAL FOR the above-referenced application, with whatever restrictions,

requirements, limitations or specifications are contained herein:

Cheryl LaFlamme

Charles Foster

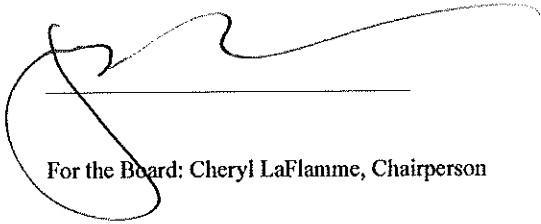
John Gannon

Chrystal Holt

Diane Abate

OPPOSED:

ABSTAINING:



Date: 7/10/2025

For the Board: Cheryl LaFlamme, Chairperson

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.